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## VIA ECFS

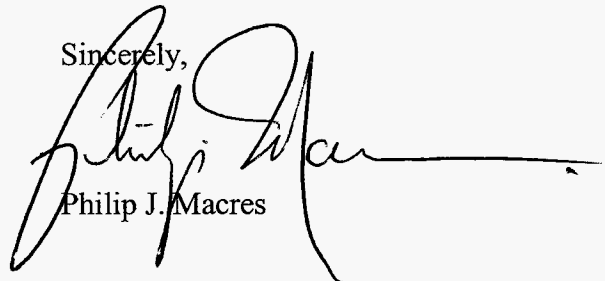
Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Portals  
Washington, DC 20554

Re: Ex Parte, CC Docket No. 01-92

Dear Secretary Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, this will provide notice that on January 23, 2006, Gavin McCarty, Chief Legal Officer of Globalcom, Inc. and the undersigned had a brief teleconference with Steven Morris, Deputy Division Chief of the Pricing Policy Division, Wireline Competition Bureau. During the call, we responded to questions asked during our January 18, 2006 meeting with Mr. Morris and other FCC staff regarding certain costs Globalcom incurs in terminating local traffic from other carriers and presented the views set forth in the attached document which was provided at the January 18, 2006 meeting.

Sincerely,



Philip J. Macres

Attachment

## **Reconsideration of T-Mobile Declaratory Ruling**

### **I. T-Mobile Declaratory Ruling**

- A.** Background: In 2002, T-Mobile and other CMRS providers filed a petition for declaratory ruling asking that the FCC reaffirm that wireless termination tariffs are not a proper mechanism for establishing reciprocal compensation arrangements for the transport and termination of traffic.
- B.** On February 24, 2005, the FCC issued its decision and denied the petition. In so doing, the FCC amended part 20.11 of its rules to: (1) prohibit LECs from imposing compensation obligations for non-access traffic pursuant to a LEC's tariff as of the effective date of the rules, April, 29, 2005 (47 C.F.R. 20.11(e)); and (2) clarify that ILECs may request interconnection from a CMRS provider and invoke the Section 252 negotiation and arbitration procedures set forth in Section 252 of the Act (47 C.F.R. 20.11(f)).
- C.** MetroPSC's Petition for Clarification/Reconsideration of Decision: MetroPSC seeks clarification/reconsideration that (1) the portion of the decision permitting termination tariffs prior to the effective date of the Order only applies to ILEC tariffs and not CLECs, and (2) CLECs and CMRS providers are deemed to be subject to a bill-and-keep arrangement unless they reach a mutually agreeable reciprocal compensation arrangement.

### **II. The FCC Should Deny MetroPSC's Petition and Instead Clarify that CLECs Have The Same Rights As ILECs. Specifically, the FCC should clarify that:**

- A.** Nothing prohibited CLECs from using reciprocal compensation tariff prior to the effective date of the T-Mobile Decision on Reconsideration.
  - If a CMRS provider disputes the tariffed rates, it could always file a complaint that the rates are not just and reasonable. In many jurisdictions, state commissions require CLECs to file tariffs for such offerings. Moreover, until CLECs can compel CMRS providers to negotiate and arbitrate reciprocal compensation provisions, CMRS should be bound by CLEC tariffs.
- B.** Subsequent to the effective date of the T-Mobile Decision on Reconsideration, CLECs may request interconnection from a CMRS provider and compel negotiations and arbitrations of reciprocal compensation arrangements with CMRS providers pursuant to Section 252 of the Act.
  - Under T-Mobile, only ILECs were protected and given this right because CMRS providers have no incentive to negotiate such provisions. CLECs were neglected even though the FCC found that it is "necessary to ensure that LECs [both ILECs and CLECs] have the ability to compel negotiations and arbitrations, as CMRS providers may do today." T-Mobile. ¶ 16. The FCC must address this shortcoming with its order and establish a mechanism that requires CMRS providers to negotiate with CLECs. Expanding Rule 20.11(f) in this manner is an appropriate and equitable approach by which to resolve MetroPSC's concerns.